

REMARKS

Entry of this amendment and favorable reconsideration of this application are respectfully requested.

Claims 1, 2, 4, 6-8 and 10-19 are pending in this application.

Claims 1, 2 and 4 have been rejected by the Examiner under 35 U.S.C. §112, second paragraph, as being indefinite with respect to the phrase “to maintain the substantially perpendicular suture/pledget orientation”. Because the allegedly indefinite phrase does not appear in Claim 1, Applicant requests reconsideration and withdrawal of this rejection.

Claims 1, 2 and 4 have been rejected by the Examiner under 35 U.S.C. §112, second paragraph, as being indefinite with respect to the phrases “a first and second slit” and “a first and second opening”. Because the allegedly indefinite phrases do not appear in Claim 1, Applicant requests reconsideration and withdrawal of this rejection.

Claims 1, 2 and 4 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 3,819,039 to Erickson (hereinafter referred to simply as “Erickson”). This rejection is respectfully traversed.

Erickson fails to teach or suggest a block that contains a first and a second slit configured to substantially align with a first and a second opening on a pledget, wherein the first and the second slits are configured and adapted to engage a first and a second end portion of a suture to maintain the suture in a substantially perpendicular relation to the pledget. Rather, Erickson discloses a block for storing sutures in a predetermined position relative to other sutures and *not to a pledget*. In fact, a word search of Erickson reveals that the word pledget does not appear anywhere therein. Each suture in Erickson is stored in a single slit in block 10 and each slit is meant to store one or more sutures in a stacked relationship See, e.g., column 1, lines 57-60 which states: “a relatively large number of

sutures may be stacked in a slightly vertically spaced relationship with in the slits”; column 3, lines 6-9 which also states: “the first suture would be arranged near the bottom and successive sutures would be placed at higher levels to eventually constitute a stack”; and column 3, lines 44-47 which further states: “he may position a small group of sutures within a slit or a stack of sutures extending substantially throughout the entire depth of the slit”.

Additionally, Erickson fails to teach or suggest a block that is designed, configured, or adapted in any manner conducive to maintaining a suture in a particular position relative to a pledget. Rather, Erickson discloses a block having slits configured to allow a selected suture to be quickly withdrawn from the block **without displacing or adversely affecting any other sutures located above or beneath the selected suture** See, e.g., column 1, lines 34-39 which states: “this invention comprehends a lightweight, inexpensive, handy suture holder for reliably holding numerous individual surgical sutures in a manner so that a selected suture may be quickly withdrawn from its storage place without displacing or adversely affecting the other sutures”; column 3, lines 60-61 and column 4, lines 1-3 which also states: “the scrub technician may quickly and confidently pull a single suture from its slit without disturbing the relative position of the other sutures located beneath it or above it”. Clearly one skilled in the art would realize from Erickson’s disclosure that the only feasible way to withdraw the selected suture from the Erickson block without displacing or adversely affecting any other suture located above or below the selected suture is to withdraw the selected suture from the block via end walls 13 and 14 and not via top wall 11. Since Erickson’s block was not designed to allow for withdrawal of the selected suture via top wall 11 and the block’s opposing faces of the side-by-side abutments generally contact and exert gentle pressure upon one another [See, e.g., column 1, lines 43-45 which states: “the abutments are arranged so that opposing faces of side-by-side abutments contact one

another with gentle pressure”; and column 2, lines 40-43 which also states: “the opposing or adjacent faces of the side-by-side abutments generally contact and exert gentle pressure upon one another”] then most certainly Erickson’s block was not designed, configured or adapted to allow a pledget to pass through the slits or be withdrawn via end walls 13, 14. In fact, end walls 13, 14 would dislodge a pledget from the selected suture as the selected suture was withdrawn from Erickson’s block. Therefore Erickson’s block does not perform nor is it inherently capable of performing the intended use of the apparatus disclosed in Applicant’s present application.

For at least the foregoing reasons, withdrawal of the rejection of Claims 1, 2, and 4 under 35 U.S.C. §102(b) as being anticipated by Erickson is deemed appropriate and is respectfully requested.

Claims 1, 2 and 4 have also been rejected by the Examiner under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,582,288 to Zatarga (hereinafter referred to simply as “Zatarga”). This rejection is respectfully traversed.

Zatarga fails to teach or suggest a block that contains a first and a second slit configured to substantially align with a first and a second opening on a pledget, wherein the first and the second slits are configured and adapted to engage a first and a second end portions of a suture to maintain the suture in a substantially perpendicular relation to the pledget. Rather, Zatarga discloses the use of only **one slit** when describing the positioning of the suture relative to the pledget. See, e.g., column 2, lines 33-35 which states: “The suture passes through slit 44 and loops back again through slit 44. Pledget 32 is located on suture 12 along the loop at slit 44”. While more than one slit may be used in the Zatarga package, the disclosed purpose of the additional slits is to configure the needles of a double-armed

suture in a tiered configuration See, e.g., Zatarga column 2, lines 39-41 which states: "This configuration results in hooks 26 and 30 being in a tiered configuration".

Also, the **only drawing** in Zartaga shows the pledgets lying in a plane parallel to the retainer, which is parallel to the sutures. Therefore, the first and second openings of the pledget do not face or abut the retainer, but rather face and abut side panel 56. Thus, Zatarga fails to teach or suggest a block having a first and a second slit that are configured to substantially align with a first and a second hole of the pledget. Furthermore, nowhere in Zatarga are the retainers described as being capable of performing the intended use of Applicant's presently disclosed apparatus wherein a suture is maintained in a substantially perpendicular relation to the pledget. Rather, the first and the second ends of the suture exit the pledget via the first and second holes and lay in the same plane as and are parallel to the pledget and are sandwiched between the pledget and side panel 56 before entering the retainer together at single slit 44.

The Zatarga package simply does not teach or suggest any structure that is configured to maintain a suture in a substantially perpendicular orientation relative to a pledget as recited in Claim 1. Nor can it be stated without hindsight review of Zatarga's application in view of Applicant's present application that the retainer disclosed in Zatarga is inherently capable of fixating a suture in a substantially perpendicular orientation relative to a pledget. Accordingly, Zatarga does not anticipate or render obvious the presently recited subject matter.

For at least the foregoing reasons, withdrawal of the rejection of Claims 1, 2, and 4 under 35 U.S.C. §102(b) as being anticipated by Zatarga is deemed appropriate and is respectfully requested.

In view of the foregoing, this application is believed to be in condition for allowance.

Such early and favorable action is earnestly solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'P. DeLuca', with a long horizontal flourish extending to the right.

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